S.B.CIVIL WRIT PETITION NO.3051/2003

The Executive Officer, Municipal Board, Deedwana
V.
The Labour Court, Jodhpur & Anr.

DATE OF ORDER :: 4th July, 2006

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Kailash Joshi, for the petitioner.
Mr. Sachin Acharya, for the respondents.

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The validity, propriety and correctness of the award dated 26.3.2003 passed by Labour Court, Jodhpur is questioned by the employer Municipal Board, Deedwana in the instant petition for writ.

In brief, facts of the case are that the appropriate government by a notification dated 26.12.2000 referred an industrial dispute to Labour Court, Jodhpur for adjudication in following terms:-

> " क्या अधिशाषी अधिकारी नगरपालिका मण्डल डीडवाना (नागौर)द्वारा श्रमिक रमेशचन्द्र ओझा पुत्र श्री रामगोपाल ओझा कोट मौहल्ला ओझा की गली, डीडवाना को दिनांक 11.6.99 से सेवा से पृथक किया जाना उचित एवं वैध हैं? यदि नहीं तो श्रमिक किस राहत को पाने का अधिकारी हैं ?"

Learned Labour Court on 2.11.2002 ordered to proceed exparte against the petitioner as no one appeared before the court to represent the petitioner. By the award impugned dated 26.3.2003 learned Labour Court held that the workman was appointed as daily rated employee with the Municipal Board, Deedwana

w.e.f. 13.1.1996 and he continued as such uptil 11.6.1999 the day on which he was retrenched from services. The tribunal also found that the Municipal Board under its resolution No.6 dated 6.10.1998 resolved for confirmation of appointment of the petitioner in its service. In the factual background as stated above, learned tribunal held that termination of the petitioner from service w.e.f. 11.6.1999 amounts retrenchment and the same was passed without adhering mandatory condition precedent to do so and, therefore, ordered for reinstatement of the petitioner with 30% of back wages from the date of reference.

While assailing validity, propriety and correctness of the award impugned it is contended by counsel for the petitioner that one Lower Division Clerk Shri Maturam was authorised to appear before the court but due to carelessness on his part the employer remained unrepresented and suffered an adverse award. It is also contended that learned Labour Court erred in holding that the respondent workman was in continuous service of the petitioner.

Heard counsel for the parties.

The award impugned dated 26.3.2003 cannot be said bad merely on the count that the Municipal Board remained unrepresented due to alleged carelessness of

its employee. I do not find any error in the order passed by the Labour Court for proceeding exparte against the employer. I am also not satisfied with the contention of counsel for the petitioner that the Labour Court erroneously treated the respondent workman in continuous employment of the Municipal Board. It is not disputed even by the petitioner that the respondent workman was employed on 13.1.1996 and was retrenched from service on 11.6.1999. The respondent workman in view of the fact stated above was certainly in continuous employment of the petitioner in the terms of Section 25-B of the Industrial Disputes Act, 1947 and admittedly the condition precedent for valid retrenchment was not adhered before discontinuing the petitioner from service. No other contention is raised on behalf of the petitioner to challenge the award impugned.

In view of whatever discussed above, I do not find any error in the award impugned warranting interference of this Court under Articles 226 and 227 of the Constitution of India. The writ petition, therefore, is dismissed.

(GOVIND MATHUR),J.

kkm/ps.